

**RYE CONSERVATION COMMISSION  
&  
RYE WATER DISTRICT  
&  
RYE SELECT BOARD  
MEETING MINUTES**

Thursday, September 15, 2022 – 7:30 p.m.  
Rye Jr. High School Cafeteria

**Rye Conservation Commission Present:**

*Suzanne McFarland, Chair*  
*Sally King*  
*Susan Shepcaro*  
*Jaci Grote*  
*Jeff Gardner*  
*Karen Oliver*

**RWD Commissioners Present:**

*Ralph Hickson*  
*Scott Marion*

**Also Present on behalf of the Water District:**

*Arik Jones, RWD Superintendent*  
*Chris Berg, Wright-Pierce Engineering*

**Selectmen Present:**

*Phil Winslow, Chair*  
*Tom King*  
*Bill Epperson*

**Also present on behalf of the Town:**

*Attorney Eric Maher*

**I. Call to Order**

Select Board Chair Phil Winslow called the joint meeting of the Select Board, Rye Water District, and Rye Conservation Commission to order at 7:36 p.m. and led the pledge of allegiance. The objective of the meeting is to discuss the lack of water issue in the District and to determine the proposed steps moving forward.

## **II. Current water situation in Rye**

The Town of Rye Select Board, Rye Water District, and the Rye Conservation Commission met to discuss the ongoing water source investigation being done by the Water District in conjunction with their engineering firm Wright-Pierce. **RWD Commissioner Scott Marion** introduced Chris Berg from Wright-Pierce Engineering and asked him to go over some of the issues being faced by the Water District. The group will then get into the specifics of the Brown Farm Lane property.

**Chris Berg, Wright-Pierce**, explained that there are physically three wells that make up the existing water supply: Garland well, Bailey Brook well, and Cedar Run well. The Garland well is a gravel packed well. The Bailey Brook and Cedar Run wells are both bedrock wells. The Cedar Run well has degraded water quality for both iron and manganese at elevated levels, as well as elevated levels of topical organic compounds (TOC). When that well is online, it produces water that is consumable but is esthetically less of a quality of water than what is acceptable by the residents in the District. By having that well offline, the system has difficulty meeting the demands at certain points, particularly during the summer months. It also reduces the redundancy and reliability of the system. It puts the water system in somewhat of a compromised state. The development of a new water source, which the District has been pursuing for a number of years, would restore that water system capacity and capability. He continued that since 2018, the District has done a survey of the available properties within Rye that would meet setback requirements for wellhead protection. The District has also done investigations to understand how these sites could get developed. Some of the sites have covenant restrictions. Some have setback issues and other issues. However, there are a couple of sites within town that the District is pursuing. Most of those properties are either existing town properties or have a conservation easement in place. As the District moves forward in developing additional water supply to replace or supplement existing sources, the locations and areas that are available for development for water supply are areas that are in existing conservation.

Mr. Berg explained that the goals of wetland protection and general conservation are very much in alignment. Commercial development is not inline within an area where a well would be developed. The area should be kept as natural as possible so the well head is protected and potential for contamination is reduced.

**RWD Superintendent Arik Jones** explained that Cedar Run well has been offline from production since 2018 because of total organic compounds. Iron is one of the biggest issues with the Cedar Run well. RWD is not going to rectify the problem with that well. To treat it, the cost would be about ten million dollars. The Rye Water District has a mission to serve the people in the District. The mission is to provide clean, safe, drinking water and provide water for fire protection.

**RCC Member Jaci Grote** asked if the iron and manganese content that comes out of the Cedar Run well meet the current statewide levels for those contaminants.

Superintendent Jones explained that presently, it exceeds the secondary maximum contamination level (MCL). The secondary MCL's are esthetics, taste, odor and color. The secondary MCL on iron is .3 parts-per-million (ppm). Levels have been seen at times up to 5-ppm for iron and the manganese is following. At this time, it appears an MCL will be implemented for manganese. Cedar Run will be over the MCL that is proposed. The MCL was supposed to go into effect in July of this year; however, it was postponed to January 1<sup>st</sup>. It sounds like it may be postponed again until July of next year. However, it is coming. Mr. Jones continued that without Cedar Run online, the Water District has only two wells.

RCC Member Grote asked if the other two wells will meet the MCL.

Superintendent Jones noted that Garland well is basically no detect on manganese. The MCL being proposed is a .1-ppm for immune compromised people and infants. If the .1-ppm is exceeded, a public notification is required. If that continues to happen, more than likely treatment will be necessary. There are several means of treatment possible. Blending of water is one of them.

RWD Commissioner Marion pointed out that it's important to note that if one of the wells goes down, then the water is not being blended.

RCC Member Grote asked if both the Cedar Run and Bailey Brook wells meet the proposed MCL.

Superintendent Jones noted that Bailey Brook well is just below at .07-ppm. He also noted that the levels rise and fall. If the water is blended with Garland water, it will potentially fall under the .1-ppm value. He reiterated there are only two wells supplying the whole system. The Garland well puts out about 500 gallons per minute. Bailey Brook well puts out about 300 gallons per minute. That's only 800 gallons per minute to the system. Bringing on the Cedar Run well does assist; however, it's severely diminishing the water quality. Also, in the future, it will be in violation. It's mandatory that RWD finds another source that is higher in quality to build resiliency and redundancy. If one of the wells was to go down, there would be very limited production and capacity.

RWD Commissioner Marion noted that Cedar Run well does come on in the summers because of the irrigation burden. It comes on a lot. The District is very close to crisis mode many days during the summer.

Superintendent Jones explained that last year, during the irrigation season, the Cedar Run well was able to stay offline. This year, in order to support the system and keep the system ready for fire protection, all three wells had to be brought online at various periods of time.

RCC Member Grote pointed out that if they find a source for water, it's still two years away. She asked what is going to be done over the next two years if there are only two good wells.

RWD Commissioner Marion noted that if they don't start now, it's going to be another two years away. They have to start or they'll have to say people can't water lawns, or the size of the town

can't be increased. It would impose a different lifestyle. These are choices that people have to make. It's risky to only have two good wells. If RWD has the legal rights to look for water on other properties, they would be negligent as commissioners to not move in that direction.

Superintendent Jones stated that RWD is looking at irrigation control and what kind of by-laws can be put into place. Another avenue is controlling the consumption utilized by irrigation. One way to do it is to put mandatory restrictions in place. The other way is to change the rates. This is not a simple thing to do because the customer who is already being conservative should not be punished. However, something has to be put out to make people realize they might be abusing the water. The other option is treatment. In order to treat the water, it would be about ten million dollars for a central water treatment plant. At this time, the water is non-processed and non-treated. This is very different from processed, treated water. If the Cedar Run well is brought back online, there will have to be treatment. It will have a different taste and a different odor.

Referring to the recent Town Newsletter, **RCC Member Jeff Gardner** asked if it's true that one-quarter of the District's population is using about two-thirds of the water.

Superintendent Jones confirmed.

**Selectman Bill Epperson** noted there have been discussions about a possible interconnect with Aquarion Water for fire suppression at this time, and perhaps, domesticated water in the future. He asked if this is still a possibility.

Superintendent Jones replied this is still a possibility. There have been some challenges with the Public Utilities Commission (PUC), so it has been halted and will be looked at in the future. He continued that RWD has acquired some infrastructure on Route 1. This puts one of RWD's hydrants and Aquarion's hydrants within 50ft of each other. It's not a connection, but it's for temporary availability. He continued there's also an interconnect with Portsmouth at RWD's office building on Sagamore Road. The equipment is probably dating back to 1955, so RWD is in the middle of doing a redesign for that connection to make it a viable source, which has probably not been used since the late 70's.

RWD Commissioner Marion stated that they should be pushing stronger conservation efforts; however, they cannot rely on one option. Everyone is present to talk about testing for water on the Brown property. RWD believes that based on the covenants that they have the legal right to do so and to do so carefully. RWD wants to work together with the Conservation Commission and the Town, so it's done in the best way possible.

Superintendent Jones noted there's a lot to providing and securing safe, clean, drinking water. All the wells are in the same area. As something as simple as a fuel truck rolling over on a snowy day could take out the wells. Having a well in a different location builds resiliency.

### **III. Review of the Brown property**

Mr. Berg presented a PowerPoint presentation regarding the Brown Lane Farm property, which is located off West Road and is managed by the Rye Conservation Commission. The water rights on the property are governed by Natural Resources Conservation Service (NRCS). The property is currently used by the public. There's a trail network that is connected through the land. In May 2022, Wright-Pierce, in conjunction with the District, conducted two geophysical surveys on the property. Three primary drilling targets were identified at the site. All three targets are located very close to the existing woods road and would be investigated as minimally invasive as possible on the site.

RCC Member Grote asked if the wellhead protection area is a radius of 400ft.

Superintendent Jones explained that the sanitary protection area (SPA) is 400ft. The wellhead protection area is much larger. In some cases, it's not a circle. It's determined by NH DES through the flow of water and surrounding businesses.

RCC Member Grote pointed out that this is a significant amount of space and the parcel is 51-acres. It was purchased for conservation and for enjoyment by the Rye residents. This was purchased with taxpayers' dollars. The consequences of that have to be discussed as well.

Superintendent Jones commented there's a trail system that goes through two of RWD's sanitary protection areas. On a daily basis, people walk through these trails and RWD does not prevent them from doing that.

RCC Member Grote asked how people having access in the sanitary radius would protect the wellhead and the water.

Mr. Berg noted it's all a part of the discussion about what would be allowed within the sanitary radius.

Mr. Jones explained that NH DES makes the decision on what is allowed and what is not allowed. Even if RWD does not have an issue with something, it has to be put in front of DES.

**RCC Vice-Chair Sally King** stated that if RCC encourages RWD to start with one well, or they go directly to the three, it impacts this land and the accessibility. There were other reasons why this land was conserved. They did get water rights on it and she still thinks this is a good idea. However, they have to take the process extremely slow, in order not to lose control of the whole parcel.

Superintendent Jones agreed. He noted that even though there are three targets on the site, RWD is not looking to activate all three.

RWD Commissioner Marion stated they are looking to only have one operational well. The 400ft radius is not for the test wells. It's for the operational well. There may not be any wells, but that's not known until they look.

**RCC Chair Suzanne McFarland** stated that as she looks at the big picture, they should take this slowly and be mindful that the former property owner lives next door. Also, RCC has been talking with several people about conserving their land. They don't want those people to take water rights off their land because of going too fast or alienating the people who conserved the land. For her, it's not just Brown Farm Lane. It's a much bigger picture. She agrees that they need education for the residents so they understand the process.

RWD Commission Marion explained that is why they are having this meeting. They are trying to figure out how to move at an appropriate, but respectful, and deliberative pace.

**Select Board Chair Phil Winslow** commented that they need a plan. At least the first couple of steps of a plan. He thinks everyone would agree that water is needed. The Brown property seems to be a good location. Where do they go from here? He totally understands the concerns about losing access to the property for conservation. That has to be mitigated as much as possible. How can the Select Board, Conservation Commission and the Water District work together to begin moving forward?

RCC Chair McFarland noted that the Conservation Commission doesn't make plans unless everyone has had a chance to talk about it. Not all of the RCC Members are present, so no actual decision can be made tonight. The other thing is that NRCS plays a big part in this and they have to know the process.

RWD Commissioner Marion stated that as he understands, RWD would have to submit a written plan to NRCS and that is not ready to go yet. He asked if NRCS would ultimately have the approval authority.

RCC Vice-Chair King explained that the Conservation Commission has the veto. NRCS worked with the RCC to get water rights on this property. The turnaround time for NRCS is extremely slow. She pointed out that water rights were put on this property deliberately. The Conservation Commission is not unaware of the water crisis. A minority of the people are using the majority of the water. It's her understanding that a majority of that water is going to irrigation. If there could be a control on drinkable water being casually treated, it would solve a lot of problems that got them to where they are now.

Select Board Chair Winslow stated that short-term, they are looking at one hundred and eighty units going up potentially in the next two years.

RCC Vice-Chair King stated that if this is approached as if they are using conservation land for more water, it's not going to sit well with a lot of people. It shouldn't be about future development. It should be about sustainability for what's been provided so far. The Water District is trying to get back up to speed, not see how many additional buildings can be put in.

Select Board Chair Winslow stated that from the Select Board's standpoint, the commitment is to provide the highest quality of service to the residents. If the residents want irrigation, that's part of the commitment. The Select Board has a commitment in place with the Water District to

come up with controls for irrigation. It may add some additional costs to the way people have been irrigating. It's a combination of programs to be able to solve the problem.

Superintendent Jones noted that an average daily production of water in the off-season is about 250,000 to 300,000 gallons per day. That's a baseline. There are more people who come into town in the summer season, which adds into domestic use. However, the seasonal customers generally don't have high use. In 2020, there was an upwards of 1.1 to 1.2 million gallons produced out to the system during the course of a twenty-four-hour period of time. Around 700,000 to 800,000 of that was out to irrigation. That would be taking 250,000 or 300,000 average and bumping it up to 400,000. The remainder would be 800,000.

**RCC Member Susan Shepcaro** commented that is ridiculous. The District is worried about having water to drink and enough water to put out fires, and people are putting it on their lawn. She thinks there needs to be some warrant article work done for putting restrictions on irrigation systems.

RWD Commissioner Marion pointed out there are mandatory restrictions in place right now. When driving around town, it can be seen that there are a lot of really green lawns. The challenge is not having an enforcement mechanism in place at this time.

RCC Member Grote asked if they can regroup after the Conservation Commission's October meeting. In the meantime, RWD can continue to do what they need to do.

RWD Commissioner Marion noted that RWD would like to move forward with preparing the application for NRCS. It won't be submitted, but it will be shared internally. RWD doesn't want to wait until October 13<sup>th</sup> to get the go ahead to even prepare that application.

RCC Member Grote replied as long as RWD understands that just filling out the paperwork is not a consent on Rye Conservation Commission's part.

RWD Commissioner Marion confirmed that they understand. He also confirmed that the Rye Conservation Commission will see the application before it is sent to NRCS.

RCC Member Shepcaro noted that she saw the overlay showing the vernal pools. Target well #1 is not near a vernal pool. Target well #2 is right next to a vernal pool. She pointed out that there are three major vernal pools on that property and they are extremely important. She thinks it would be reasonable to start with one well and not to think about target #2 because of where it's located.

Mr. Berg explained this will be a bedrock well. They are hoping to find water fairly deep into the ground and have those fractures be deep and not shallow. One of the reasons why Cedar Run is compromised is because it has a number of fractures higher up in elevation. It's pulling the organic carbon in from the surface water. He pointed out that one of the things that has to happen, as part of the permitting process through the State for a large groundwater withdrawal permit, is that a review of all the environmentally sensitive factors associated with vernal pools and wetlands is done to make sure the well is not impacting vernal pools or wetlands.

RCC Vice-Chair King reminded everyone that the Conservation Commission spent six years leveraging funding. Approximately \$540,000 plus came from NRCS for the protection of the vernal pools. The price of the property was \$625,000., so the Town made up very little of those funds. The Rye Conservation Commission feels an incredible obligation to the water resources on that property.

#### **IV. Other Business**

##### **Public Comment:**

**Joann Price, 19 Park Ridge Ave**, commented that this is the first time she is hearing of the problem. She wonders why this hasn't been addressed previously. It's a very important part of how this community will prosper. She asked if RWD has looked at other possibilities for the well. She also asked why they have decided on this particular location. She pointed out that RWD needs a master plan addressing water use and water availability in the community. This seems like an attempt to do something quickly. It doesn't seem like there has been any consideration of letting the public know how serious this problem is. She thinks if everyone knew how serious this problem was, they would be willing to do the things necessary to make water available to everyone fairly. She also commented that this brings up the thought of whether there should be a hiatus on any development because the water is not available. This requires the Water District to have a master plan that looks to the future. It also requires the Select Board to think seriously about what measures they should put in place to let the public know what's being faced. Plans should not be made just for now, but also for the future.

RWD Commission Marion noted that the Water District Commissioners meet the first Wednesday of every month at 9:00 a.m. at the RWD office at 60 Sagamore Road. This is not the first time this issue has been addressed. It has been an obsession of master planning for years. He invites people to attend the commissioner's meetings, so it can be discussed in depth.

Superintendent Jones noted this is not the only location that has been looked at. RWD has looked at several locations over the past several years. In 2020, RWD drilled on its own property looking for a backup well to Bailey Brook well and replacement well for Cedar Run well. RWD also looked at conservation property behind Rand property in 2019. They also looked at conservation property off Cedar Run at the same time. This is not new. RWD is not focusing directly on the Brown property.

**Steven Borne, 431 Wallis Road**, commented that he is very concerned about the bigger picture. The aquifer is a big math problem and he doesn't know if they have their arms around that. Aquarion Water is also looking at drilling more wells because they have a need. It's all one big aquifer everyone is pulling from. He really doesn't think they have a good handle on how much water is in the aquifer, and what the quality will be. With the development going on, he does not have a great feeling about the high-level thinking and the math. This is a huge issue for the entire town, not just the people who live in the Rye Water District. The Rye Water District has a small staff and are going one hundred miles per hour to keep the water they already have. There needs to be some more horsepower from somewhere to get the answers quicker.



**Lydia Tilsley, 17 Central Road,** stated that it feels like there needs to be a plan, not on another well, but a plan at a higher level where the Town is not adding another one hundred and eighty units and then drilling a well to meet the units. It feels like it's all interconnected. It needs to be led in that way or it won't work.

RWD Commissioner Marion pointed out that the Selectmen have been attending the District's meetings to work on these issues. He also pointed out the boards are independent. The Water District runs a separate election and is independent from the Select Board. He continued that it would be worth it to hear what Wright-Pierce has been doing over the last five years to help RWD with this problem.

Mr. Berg explained that in 2018, Wright-Pierce was engaged to start diving into where there may be a potential for wells within the District. An overall evaluation was done on available properties that would have the appropriate setbacks and they came up with a number of sites. Wright-Pierce has been working with the District to review and evaluate those sites over the past couple of years. A number of geophysical surveys were done across those properties that were available. Some test well investigation was done on the Rye Water District property. The other sites have not moved beyond the geophysical investigations. Beyond this work, from a planning perspective, the Rye Water District has engaged in a lot of asset management work over the last number of years. This coming year, the District will be working on a larger project that will be looking at population projections, and demand analysis that will help form some of the master planning. This is part of an asset management project that will be going on over the next two years. The Town and Conservation Commission will also be engaged for their input as well.

Select Board Chair Winslow clarified that the one hundred and eighty units are not approved. Selectman Epperson and the Planning Board went to the Water District about those projects. The Water District said there is not enough water to allow that development to continue, so it stopped. He continued they are balancing a number of things. They are balancing the water needs and conservation. They are also balancing the need in the community for workforce housing. One of the Rye's ordinances is that twenty percent of condo developments have to be set aside for workforce housing. He reiterated they have major issues they are trying to balance and some are more challenging than others. He stated that there was almost a 1.1 billion dollar increase in the assessed values of properties. Homes have increased by forty-eight percent. Young families are not going to be able to move into town, so the balance is to provide workforce housing. There are multiple issues to be considered.

Selectman Epperson pointed out that the last real tract of land that is developable on Route 1 is the Ciborowski property, which is about 100-acres of land. There have been projects projected for that land for sixty to eighty units. In going back to the Water District, it was made very clear that this cannot be supported because the water resource is not available to do it. It can't happen unless there is sufficient water. It doesn't look like it's going to happen anytime soon, so the one hundred and eighty units are not going to be built.

**Select Board Vice-Chair Tom King** stated that the Select Board has been encouraging the Water District to work on this issue for several years. The Select Board's goal is to try to be neutral, but emphasize the need to work together because there is a real problem. With that said, there is an entity that is not under the Town and an entity that is a town commission that need to work together. However, just like any other land use board, they can't deal with theocratics. There has to be a written plan. The Conservation Commission has to be able to review the plan and discuss it. At this time, he thinks the burden is on the Water District to put together a plan in writing and present it to the Conservation Commission.

Select Board Chair Winslow stated that it would be good to get some direction from the Conservation Commission about what they need specifically from the Water District.

RWD Commissioner Marion noted that the RWD did not come to the meeting with a plan because they didn't want it to seem like it was a done deal. They wanted to have a conversation before creating a plan. It seems there is now the go-ahead to create a plan. The plan that is written for NRCS is the plan that RCC would review. This is the next step for the Water District.

Select Board Vice-Chair King asked if the plan will have the detail that would be expected of someone going to the planning or zoning board. For example, the entrance off West Road to this property is not going to be conducive to large vehicles. For the Conservation Commission, they will need details that NRCS doesn't necessarily care about. How the road is going to be reconfigured for large vehicles, where the controls are going to be stationed, and where the generators will be located, will be the kind of details that the Conservation Commission will care about. These are the kinds of details that any land use board would need in order to make a decision about a project.

RCC Chair McFarland pointed out that NRCS has a warranty easement deed which asks for identification of the proposed locations and access for the test wells, and identification of every step of the process. She is going to read the warranty easement deed to see if there is anything else the Conservation Commission would be interested in. In regards to public education, a big piece of information that may be needed is why the other parcels weren't pursued and why the Brown Lane Farm property is now being considered. She is guessing that a lot of people don't know the history of this process.

RCC Member Grote commented that the majority of water suppliers in N.H. are very similar to the Rye Water District. She would love for this group to become an exemplary example of how to handle a difficult problem in a thorough way that involves everyone.

RCC Member Karen Oliver agreed. She commented that she appreciates being asked to come to the table to talk about it.

Select Board Chair Winslow asked what the next step would be after the RWD submits the NRCS paperwork to RCC for review.

RWD Commissioner Marion explained that RCC may say to submit it or there may need to be another meeting.

Select Board Chair Winslow asked what the next step would be if NRCS comes back with an approval to move forward.

Mr. Berg explained that the next step would be to actually schedule the test well drilling and to do the things necessary for those tests to be done.

Referring to the sanitary radius, RCC Vice-Chair King noted that two of the three run offsite. RWD will have to engage with private land owners to accomplish what is being discussed.

No further comments or discussion was heard from the three groups in attendance or the public.

### **Adjournment**

**Bill Epperson made a motion to adjourn the Select Board meeting at 9:00 p.m., which was seconded by Tom King. All in favor.**

**Sally King made a motion to adjourn the Conservation Commission meeting at 9:00 p.m., which was seconded by Jaci Grote. All in favor.**

**Scott Marion made a motion to adjourn the Rye Water District Commission meeting at 9:00 p.m., which was seconded by Ralph Hickson. All in favor.**

Respectfully Submitted,  
Dyana F. Ledger